

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID Q. WEBB,

Plaintiff,

v.

ENTERPRISE HOLDINGS LLC, et al.,

Defendants.

CASE NO. 3:22-cv-05406-BHS

ORDER ADOPTING REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Theresa L. Fricke, United States Magistrate Judge. Dkt. 12. Judge Fricke recommends the Court deny Plaintiff David Q. Webb’s Motion for Leave to Proceed *in forma pauperis*, Dkt. 1, because he failed to state a claim. Dkt. 12. After Judge Fricke issued the R&R, Webb moved to appeal *in forma pauperis*. Dkt. 14.

A party to a district court action who desires to appeal *in forma pauperis* must file a motion in the district court. Fed. R. App. P. 24(a)(1). An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith. 28 U.S.C. § 1915(a)(3). “We consider a defendant’s good faith in this type of case demonstrated when he seeks appellate review of any issue not frivolous.” *Coppedge v.*

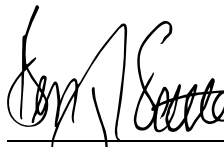
1 *United States*, 369 U.S. 438, 445 (1962). The determination whether a party can proceed
2 *in forma pauperis* is a “matter within the discretion of the trial court.” *Weller v.*
3 *Dickinson*, 314 F.2d 598, 600 (9th Cir. 1963).

4 The Court agrees with the R&R that Webb failed to state a claim. It therefore
5 adopts the R&R. The Court also concludes that because Webb has failed to state a
6 plausible claim, an appeal would be frivolous. Both of Webb’s motions are therefore
7 **DENIED**.

8 The Court having considered the R&R and the remaining record, and no
9 objections having been filed, does hereby order as follows:

- 10 (1) The R&R is **ADOPTED**;
- 11 (2) Plaintiff’s application to proceed *in forma pauperis*, Dkt. 1, is **DENIED**,
12 and Plaintiff is directed to pay the \$402.00 filing fee within thirty (30) days
13 of this Order;
- 14 (3) Plaintiff’s Motion for Leave to Appeal *in forma pauperis*, Dkt. 14, is also
15 **DENIED**; and
- 16 (4) The Clerk is directed to send copies of this Order to Plaintiff.

17 Dated this 11th day of August, 2022.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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